

South Australia

Second-hand Dealers and Pawnbrokers Variation Regulations 2016

under the *Second-hand Dealers and Pawnbrokers Act 1996*

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Variation provisions

Part 2—Variation of *Second-hand Dealers and Pawnbrokers Regulations 2013*

- 4 Variation of regulation 3—Interpretation
- 5 Insertion of regulation 7A
 - 7A Further powers of Commissioner of Police to disqualify person from carrying on business as second-hand dealer
- 6 Substitution of regulation 8
 - 8 Notification by dealers, proposed dealers and former dealers (section 7 of Act)

Schedule 1—Transitional provision

- 1 Dealers to give Commissioner of Police notice of certain information
-

Part 1—Preliminary

1—Short title

These regulations may be cited as the *Second-hand Dealers and Pawnbrokers Variation Regulations 2016*.

2—Commencement

These regulations will come into operation on the day on which the *Tattooing Industry Control Act 2015* comes into operation.

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Second-hand Dealers and Pawnbrokers Regulations 2013*

4—Variation of regulation 3—Interpretation

- (1) Regulation 3—after the definition of *Act* insert:

close associate—see subregulation (3);

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Regulation 3—after its present contents as varied (now to be designated as subregulation (1)) insert:

- (2) For the purposes of these regulations, a reference to a parent, brother, sister or child of a person will be taken to include a reference to a step-parent, step-brother, step-sister or step-child (as the case requires) of the person.

- (3) For the purposes of these regulations, 2 persons are *close associates* if—

- (a) 1 is a spouse, domestic partner, parent, brother, sister or child of the other; or
- (b) they are members of the same household; or
- (c) they are in partnership; or
- (d) they are related bodies corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth); or
- (e) 1 has a right to participate (otherwise than as a shareholder in a body corporate) in income or profits derived from a business conducted by the other; or
- (f) 1 is in a position to exercise control or significant influence over the conduct of the other.

5—Insertion of regulation 7A

After regulation 7 insert:

7A—Further powers of Commissioner of Police to disqualify person from carrying on business as second-hand dealer

For the purposes of section 6A(1)(c) of the Act, the following offences are prescribed:

- (a) an offence against Part 3A of the *Summary Offences Act 1953* (other than an offence against section 21C(1) or 21E of that Act);
- (b) a serious and organised crime offence (as defined in the *Criminal Law Consolidation Act 1935*);

- (c) an offence against the *Controlled Substances Act 1984* involving a controlled drug, controlled precursor or controlled plant (other than an offence constituted of possessing a controlled drug, controlled precursor or controlled plant);
- (d) an indictable offence involving violence;
- (e) an offence against the *Firearms Act 1977* (other than an offence against section 15C, 16, 21A, 21AB or 26 of that Act);
- (f) an offence of attempting to commit, or assault with an attempt to commit, an offence prescribed by a preceding paragraph;
- (g) an offence against the law of another jurisdiction that would, if committed in this State, constitute an offence prescribed by a preceding paragraph.

6—Substitution of regulation 8

Regulation 8—delete the regulation and substitute:

8—Notification by dealers, proposed dealers and former dealers (section 7 of Act)

- (1) For the purposes of section 7(3)(a) of the Act, the following information is required to be contained in a notice under section 7(1) of the Act:
 - (a) in the case of a natural person who is a proposed second-hand dealer—
 - (i) the full name, residential address, telephone number and email address—
 - (A) of the person; and
 - (B) if the business is to be carried on in partnership—of each partner; and
 - (ii) the full name, residential address and date of birth of each close associate—
 - (A) of the proposed dealer; and
 - (B) if the business is to be carried on in partnership—of each partner; and
 - (b) in the case of a body corporate that is a proposed second-hand dealer—
 - (i) the full name, residential address, telephone number and email address of each director of the body corporate; and
 - (ii) the full name, residential address and date of birth of each close associate—

- (A) of the body corporate; and
 - (B) of each director of the body corporate; and
 - (iii) the address and telephone number of the registered corporate office of the body corporate;
 - (c) the full name, residential address and date of birth of each person who is to be employed in the proposed business;
 - (d) the business or trading name (if any) under which the proposed business is to be carried on;
 - (e) each address at which the proposed business is to be carried on;
 - (f) each address at which records required to be kept under the Act are to be kept;
 - (g) each address at which goods that are to be bought or received in the course of, or for the purposes of, the proposed business are to be kept;
 - (h) a brief description of the nature of the proposed business, including a description of the types of goods that are proposed to be bought or received in the course of, or for the purposes of, the proposed business;
 - (i) a statement as to whether or not any circumstance applies by virtue of which the person would be disqualified under section 6 of the Act from carrying on business as a second-hand dealer;
 - (j) an address for service.
- (2) For the purposes of section 7(4) of the Act, notice must be given to the Commissioner of Police as follows:
 - (a) if there is any change in—
 - (i) in the case of a natural person who is a second-hand dealer—
 - (A) the name, residential address, telephone number or email address of the person; or
 - (B) if the business of the second-hand dealer is carried out in partnership—the name, residential address, telephone number or email address of any partner;
 - (C) the name or residential address of a close associate of the dealer; or
 - (D) if the business of the second-hand dealer is carried out in partnership—the name or residential address of a close associate of a partner; or

- (ii) in the case of a body corporate that is a second-hand dealer—
 - (A) the name, residential address, telephone number or email address of a director of the body corporate; or
 - (B) the name or residential address of a close associate of the body corporate or of a director of the body corporate; or
 - (C) the address or telephone number of the registered corporate office of the body corporate; or
 - (iii) the business or trading name (if any) in which a second-hand dealer carries on business; or
 - (iv) the address at which the business of the second-hand dealer is carried on; or
 - (v) the address at which records required to be kept under the Act by a second-hand dealer or former second-hand dealer are kept; or
 - (vi) the address at which goods bought or received in the course of, or for the purposes of, the business of a second-hand dealer are kept; or
 - (vii) the address for service of the second-hand dealer, the second-hand dealer must, within 14 days, give written notice to the Commissioner of the new name, address, telephone number or email address (as the case may be);
- (b) if—
- (i) a person ceases to be a close associate of the second-hand dealer; or
 - (ii) in the case of a business of a second-hand dealer carried on in partnership—a person ceases to be a close associate of a partner; or
 - (iii) in the case of a second-hand dealer that is a body corporate—a person ceases to be a close associate of the body corporate or of a director of the body corporate,
- the second-hand dealer must, within 14 days, give written notice to the Commissioner of that fact;
- (c) if—
- (i) a person becomes a close associate of the second-hand dealer; or
 - (ii) in the case of a business of a second-hand dealer that is carried on in partnership—a person becomes a close associate of a partner; or

- (iii) in the case of a second-hand dealer that is a body corporate—a person becomes a close associate of the body corporate or of a director of the body corporate,
the second-hand dealer must, within 14 days, give written notice to the Commissioner of the close associate's full name, residential address and date of birth;
- (d) if a person enters into a partnership to carry on business as a second-hand dealer or ceases to be in such a partnership, the person must, within 14 days, give written notice to the Commissioner of that fact, together with the names, residential addresses, telephone numbers and email addresses of the members of the new or former partnership;
- (e) if a person becomes a director of a body corporate that is a second-hand dealer, the body corporate must, within 14 days, give written notice to the Commissioner of the name, residential address, telephone number and email address of the new director;
- (f) if an event occurs by virtue of which a person is disqualified under section 6 of the Act from continuing to carry on business as a second-hand dealer, the person must immediately inform the Commissioner of the event;
- (g) if a person ceases to carry on business as a second-hand dealer—
 - (i) the person must, within 14 days, give written notice to the Commissioner of that fact; and
 - (ii) unless the person is no longer required to keep records under the Act—the person must, within 14 days, give written notice to the Commissioner of the address for service of the former second-hand dealer.

Schedule 1—Transitional provision

1—Dealers to give Commissioner of Police notice of certain information

A person who, at the commencement of these regulations, is carrying on a business as a second-hand dealer must, within 1 month of that commencement, give the Commissioner of Police written notice containing the following information:

- (a) in the case of a natural person who is a second-hand dealer—
 - (i) the telephone number and email address of the person; and
 - (ii) the full name, residential address and date of birth of each close associate of the person; and
- (iii) if the business is carried on in partnership—
 - (A) the telephone number and email address of each partner; and

- (B) the full name, residential address and date of birth of each close associate of each partner;
- (b) in the case of a body corporate that is a dealer—
 - (i) the telephone number and email address of each director of the body corporate; and
 - (ii) the telephone number of the registered corporate office of the body corporate; and
 - (iii) the full name, residential address and date of birth of—
 - (i) each close associate of the body corporate; and
 - (ii) each close associate of each director of the body corporate.

Maximum penalty: \$2 500.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor's Deputy

with the advice and consent of the Executive Council
on 2 June 2016

No 42 of 2016

AGO0022/16CS